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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.29275 of 2026

CNR: {HCMA012422932026}

1. Kottagundu Jagadiswar Rao
   S/o Sangam,
   R/o Mamidipalli,
   Maipalle PO,
   Mamidipallee Dt.,
   Vizianagaram,
   Andhra Pradesh.

2. Pangi Gowardhan
   S/o Pangi Podune,
   R/o..876, G K veedhi Mandal,
   Kummaraveedhi,
   Rinthada Post,
   Alluri Sitharama Raju,
   Andhra Pradesh.

..Petitioner(s)

Vs

Union of India Rep. by,
The Intelligence officer,
NCB, Chennai Zonal Unit,
Chennai. R.R.No.13 of 2026

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order passed in Crl.MP.No.5072 of 2026 dated 03.09.2026 on the file of the Principal Special Judge Special Court under EC and NDPS Act, Chennai.

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For Petitioner(s): Mr. S. Karthikeyan
For Mr. K.Subburaj

For Respondent(s): Mr. V.Chandrasekar
Special Public Prosecutor NCB

ORDER

This petition has been filed challenging the order dated 03.09.2026 passed by the learned Principal Special Judge under the EC & NDPS Act, Chennai, in Crl.M.P.No.5072 of 2026, whereby the time for filing the final report in R.R.No.13 of 2026 was extended.

2. The case of the prosecution is that, based on secret information, the respondent conducted a search on 09.03.2026 and found that the petitioners and other accused persons were in possession of 530 kg of ganja in the truck in which they were travelling. Hence, the respondent registered the FIR in R.R.No.13 of 2026 for the offence punishable under Sections 20(b)(ii)(C), 23(C), 25, 27A & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (hereinafter referred to as "NDPS Act"). After registration of FIR, all the accused persons were arrested and remanded to judicial custody on 10.03.2026. Thereafter, the respondent could not able to file final report within a period of 180 days as stipulated under the NDPS Act.

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3. In the meanwhile, the petitioners filed a petition seeking default bail under Section 187(3) of the BNSS. However, the said petition was returned on 07.09.2026, on the ground that the prosecution had already filed Crl.M.P.No.5072 of 2026 seeking extension of time for completing the investigation and filing the final report under Section 36A(4) of the NDPS Act, and that the learned Trial Court had, by order dated 03.09.2026, extended the period for completion of the investigation. Aggrieved by the said order of extension, the petitioners have filed the present Criminal Original Petition contending that the prosecution had failed to disclose any valid or sufficient grounds warranting extension of the statutory period for completing the investigation and filing the final report, thereby affecting the petitioners' right to seek default bail.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. On perusal of the records, it is seen that the petitioners are arrayed as the first and second accused (A1 & A2) in R.R.No.13 of 2026 and was arrested and remanded to judicial custody on 10.03.2026. Therefore, the respondent was required to complete the investigation and file the final report

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within the statutory period of 180 days, as prescribed under Section 36A(4) of the NDPS Act. However, since the respondent could not complete the investigation within the stipulated period, a petition in Crl.M.P.No.5072 of 2026 was filed under Section 36A(4) of the NDPS Act, seeking extension of time. The grounds set out by the prosecution in the said petition were that, due to administration reason the former Investigating Officer was repatriated to her parent cadre and subsequently, the competent authority to take over the investigation. Further, they have to extend the investigation to other States to complete the investigation. On these grounds, the prosecution sought further time to complete the investigation and file the final report. The learned Trial Court, upon consideration of the said petition, allowed the request and extended the period for completion of the investigation.

6. However, the respondent has failed to satisfy the twin requirements contemplated under Section 36A(4) of the NDPS Act, namely, furnishing a report indicating the progress of the investigation and specifying the particular reasons necessitating the further detention of the accused beyond the statutory period of 180 days. The prosecution has not adequately demonstrated the progress made in the investigation or disclosed any specific and justifiable grounds warranting an extension of the period of detention.

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Therefore, this Court finds that the prosecution has failed to place sufficient and valid reasons before the learned Trial Court to justify the extension of the statutory period.

7. At this juncture, it is relevant to extract the provision contained in Section 36A(4) of the NDPS Act, 1985, which reads as follows:

> *"Section 36A(4) -- In respect of persons accused of an offence punishable under section 19 or section 24 or section 27A or for offences involving commercial quantity the references in sub-section (2) of section 167 of the Code of Criminal Procedure, 1973 (2 of 1974), thereof to "ninety days", where they occur, shall be construed as reference to "one hundred and eighty days":*
>
> *Provided that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Special Court may extend the said period up to one year on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days."*

Thus, it is clear that the learned Trial Court is empowered to extend the period for completion of the investigation up to a maximum of one year, subject to the fulfilment of the statutory requirements under Section 36A(4) of the NDPS

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Act. Such an extension can be granted only on the basis of a report submitted by the Public Prosecutor, indicating the progress of the investigation and specifying the particular reasons necessitating the further detention of the accused beyond the initial period of 180 days. In the absence of a report satisfying the aforesaid mandatory requirements, any extension of the period of detention would be contrary to the statutory mandate.

8. The Hon'ble Supreme Court of India, in ***Sanjay Kumar Kedia v. Intelligence Officer, Narcotics Control Bureau***, reported in ***(2009) 17 SCC 631***, has emphasised the mandatory nature of the requirements prescribed under Section 36A(4) of the NDPS Act. Further, an unjustified extension of detention would also have implications for the accused's right to speedy investigation and trial guaranteed under Article 21 of the Constitution of India.

9. Therefore, this Court is of the considered view that the learned Trial Courts and the learned Public Prosecutors dealing with cases under the NDPS Act must be apprised of the scope and mandatory requirements governing an application filed under Section 36A(4) of the said Act. Unless the Public Prosecutor submits a report clearly indicating the progress of the investigation and setting out specific and compelling reasons necessitating the

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further detention of the accused beyond the statutory period of 180 days, the learned Trial Court ought not to have granted an extension of time for completion of the investigation and filing of the final report. In the present case, the mandatory requirements contemplated under Section 36A(4) of the NDPS Act have not been duly complied with. Consequently, the impugned order granting extension of time cannot be sustained in law and is liable to be set aside.

10. Accordingly, the impugned order dated 03.09.2026 passed by the learned Principal Special Judge under EC & NDPS Act, Chennai, in Crl.M.P.No.2075 of 2026, is hereby set aside. The petitioners shall be released on bail forthwith, on executing a separate bond for a sum of Rs. 25,000/- (Rupees Twenty-Five Thousand only), with two blood relative sureties for a like sum each, to the satisfaction of the learned I Additional Special Judge, Special Court under EC & NDPS Act, Chennai, and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the respondent police daily twice at 10.30 a.m. & 5.30 p.m., until further orders.

[c] the petitioners shall not abscond either during investigation or trial.

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[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].**

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

11. With the above directions, the Criminal Original Petition stands allowed.

29.10.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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To

1. The Principal Special Judge under EC and NDPS Act,
Chennai.

2. The I Additional Special Judge,
Special Court under EC & NDPS Act,
Chennai

3. The Intelligence officer,
NCB, Chennai Zonal Unit,
Chennai.

4. The Superintendent of Prison,
Central Prison, Puzhal-II,
Chennai.

5. The Public Prosecutor,
Madras High Court, Chennai.

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